

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS  
**MAR 01 1999**  
JAMES W McCORMACK, CLERK  
By: \_\_\_\_\_ DEP. CLERK

<b>VERNICESA F. BARNES,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. LRC 98-547</b>
	)	
<b>McDONALD'S CORPORATION,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT'S EVIDENTIARY MATERIALS  
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

McDONALD'S CORPORATION,  
Defendant.

W. Lee Tucker  
BOSWELL, TUCKER & BREWSTER  
Bryant Center  
408 North Reynolds Road  
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**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

<b>VERNICESA F. BARNES,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. LRC 98-547</b>
	)	
<b>McDONALD'S CORPORATION,</b>	)	
	)	
<b>Defendant.</b>	)	

**AFFIDAVIT OF MARK LANDOLT IN SUPPORT OF  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

STATE OF ILLINOIS        )  
                                  ) ss:  
COUNTY OF DUPAGE      )

Mark Landolt, being duly sworn, deposes and says:

1. I am currently employed at Simon Marketing, Inc. as its Senior Vice President - Operations. I have personal knowledge of all of the matters set forth below.
2. Simon Marketing, Inc. ("Simon") is a marketing and promotions company that specializes in promotional games. As part of the marketing and promotional services that Simon performs for McDonald's Corporation ("McDonald's"), Simon developed the 1998 Monopoly Game at McDonald's (the "Monopoly Game").
3. Beginning March 26, 1998, the Monopoly Game was conducted at participating McDonald's restaurants in the United States. A copy of the Official Rules of the Monopoly Game is attached as Exhibit 10. Participants received game stamps affixed to certain

McDonald's food packages. Game stamps were also available, without a McDonald's purchase, by submitting a request and a self-addressed stamped envelope to a specified address. The game stamps are of two types: "Collect to Win" stamps and "Instant Win" stamps. "Collect to Win" stamps indicate that other game stamps must be collected in order to win the prize identified on the stamp. "Instant Win" stamps do not indicate that other game stamps must be collected in order to win the prize identified on the stamp. Corresponding to these two types of official game stamps, there are two ways to become a potential winner: (1) collect the entire series of official "Collect to Win" game stamps that constitute a complete collection section of the Monopoly game board and submit the series of game stamps in compliance with the requirements of the Official Rules or (2) obtain a single official "Instant Win" game stamp and submit the game stamp in compliance with the requirements of the Official Rules.

4. Simon also operated the McDonald's Redemption Center referred to in the Official Rules of the game. The Redemption Center received game submissions relating to the high-level and mid-level prizes and performed a verification process to determine which of the game stamps submitted were official winning game stamps. Game stamps were to be submitted to the Redemption Center in redemption envelopes, which also served as the redemption forms to be filled out and signed by the participants. A copy of a blank redemption envelope/form relating to high-level prizes is attached as Exhibit 11.

5. Ms. Barnes submitted a redemption envelope containing a single mis-cut "North Carolina Avenue" stamp (#819). A copy of the redemption envelope and game stamp is attached as Exhibit 1 and an enlarged copy of the game stamp is attached as Exhibit 2.

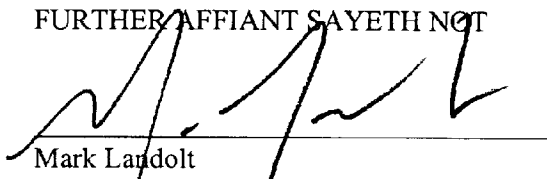
6. The game stamp submitted by Ms. Barnes was determined by the Redemption Center to be mis-cut and, therefore, null and void pursuant to the Official Rules of

the game. Ms. Barnes was so advised by a letter dated April 30, 1998 from the Redemption Center, a copy of which is attached as Exhibit 8. Enclosed with the letter from the Redemption Center was a letter from McDonald's Corporation and \$500 in McDonald's gift certificates. A copy of the letter from McDonald's Corporation (without the McDonald's gift certificates) is attached as Exhibit 9.

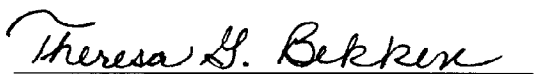
7. Pursuant to the Official Rules, one \$200,000 cash prize could be won by virtue of collecting and properly submitting the entire series of three official winning "Collect to Win" game stamps for the \$200,000 prize (#818, #819 and #820), and the other could be won by virtue of obtaining and properly submitting the official winning "Instant Win" game stamp for the \$200,000 prize (#828). The entire series of three official winning "Collect to Win" game stamps for the \$200,000 prize were submitted in compliance with the requirements of the Official Rules by a participant from Tempe, Arizona and the official winning "Instant Win" game stamp relating to the \$200,000 cash prize was submitted in compliance with the requirements of the Official Rules by a participant from North Borough, Massachusetts. The game stamps submitted by these participants were verified by the Redemption Center and, as is the procedure with high-level winning game stamps, were re-verified by Arthur Andersen, an

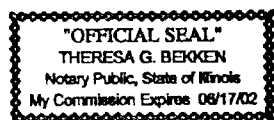
independent auditing firm. Accordingly, the two \$200,000 cash prizes were paid to these participants.

FURTHER AFFIANT SAYETH NOT

  
\_\_\_\_\_  
Mark Landolt

Subscribed and sworn to before me  
this 25<sup>th</sup> day of February, 1999

  
\_\_\_\_\_  
Notary Public



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<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. LRC 98-547</b>
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<b>McDONALD'S CORPORATION,</b>	)	
	)	
<b>Defendant.</b>	)	

**AFFIDAVIT OF BOBBY EVERETT IN SUPPORT OF  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

STATE OF GEORGIA     )  
                                  ) ss:  
COUNTY OF HALL     )

Bobby Everett, being duly sworn, deposes and says:

1. I am currently employed at World Color Direct, Dittler Division, as its Director of GPS (Games, Premiums and Specialty). I have served in this position for approximately three years, and have been in the printing industry with respect to promotional games for twenty years. As Director of GPS, I supervise, among other things, the pre-production (including the planning, programming and production design) of promotional game pieces. I supervised the pre-production of the game stamps used in the 1998 Monopoly Game at McDonald's (the "Monopoly Game"). I am familiar with the appearance of the official \$200,000 "Instant Win" game stamp and have examined copies (attached as Exhibits 1 and 2) of the game stamp and redemption form submitted

by Vernicesa Barnes to the McDonald's Redemption Center. I have personal knowledge of all of the matters set forth below.

2. The game stamps for the Monopoly Game were printed in rows and columns on 15.6 inch webs. A copy of a portion of a web for the Monopoly Game (highlighted to emphasize the stamp combination referenced in Paragraph 5) is attached as Exhibit 3.

3. After the game stamps were printed on webs, they were cut into individual pieces by way of a die cutting process. In the case of the game stamp submitted by Ms. Barnes, the web was "out of register" during the die cutting process. By "out of register," I mean that the printed game stamps on the web were not properly aligned with the die cutter. As a result, the top portion of Ms. Barnes' game stamp was cut off and the top portion of the game stamp located directly below it on the web was included on the bottom of Ms. Barnes' game stamp.

4. I have examined copies of the game stamp submitted by Ms. Barnes. It is without question mis-cut.

5. Ms. Barnes' game stamp came from a portion of a web in which a "North Carolina Avenue" stamp (#819) was located directly above an "Instant Win" game stamp. An example of such a two stamp combination is highlighted on the portion of the web attached as Exhibit 3. This two stamp combination is also depicted in Exhibit 4 hereto. Exhibit 5 hereto demonstrates the die cutting process with respect to this two stamp combination where the web is properly registered. Exhibit 6 hereto demonstrates the die cutting process with respect to this two stamp combination where the web is out of register. Because the web was out of register during the cutting of Ms. Barnes' game

stamp: (1) the green bar and the words "NORTH CAROLINA" were cut off; and (2) the word "INSTANT" and the top portion of the word "WINNER!" were added to the bottom of the game stamp. The words "INSTANT WINNER!" always appear at the top, never the bottom, of a properly cut Instant Win game stamp. Moreover, when it appears on a properly cut Instant Win game stamp, the word "WINNER!" always appears in its entirety.

6. Additionally, Ms. Barnes' game stamp is fundamentally different from the official \$200,000 "Instant Win" game stamp, depicted in Exhibit 7. Unlike Ms. Barnes' game stamp, the official winning \$200,000 "Instant Win" game stamp: (1) contains a picture of a house and a telephone number; (2) contains the words "Stamp 828," not "Stamp 819"; (3) contains the words "Instant Winner!" in their entirety, and contains those words at the top, not the bottom; and (4) says nothing about other stamps being required in order to win.

FURTHER AFFIANT SAYETH NOT.

Bobby Everett  
Bobby Everett 2/26/99

Subscribed and sworn to before  
me this the 26 day of February, 1999.

Sharon Sundt  
Notary Public  
"OFFICIAL SEAL"  
Sharon Sundt  
Notary Public, State of Illinois  
My Commission Expires 1-26-2002



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

*Exhibits Attached  
to Original  
Document in  
Court's Case File*